

# Senate Study Bill 1003

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED ATTORNEY  
GENERAL BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the maximum finance charge allowed for  
2 consumer loans secured by a certificate of title to a motor  
3 vehicle and making penalties applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1097DP 82  
6 rn/gg/14

PAG LIN

1 1 Section 1. Section 537.2401, subsection 1, Code 2007, is  
2 amended to read as follows:  
3 1. Except as provided with respect to a finance charge for  
4 loans pursuant to open end credit under section 537.2402 and  
5 loans secured by a certificate of title of a motor vehicle  
6 under section 537.2403, a lender may contract for and receive  
7 a finance charge not exceeding the maximum charge permitted by  
8 the laws of this state or of the United States for similar  
9 lenders, and, in addition, with respect to a consumer loan, a  
10 supervised financial organization or a mortgage lender may  
11 contract for and receive a finance charge, calculated  
12 according to the actuarial method, not exceeding twenty=one  
13 percent per year on the unpaid balance of the amount financed.  
14 ~~This Except as provided in section 537.2403, this subsection~~  
15 ~~does not prohibit a lender from contracting for and receiving~~  
16 ~~a finance charge exceeding twenty=one percent per year on the~~  
17 ~~unpaid balance of the amount financed on consumer loans if~~  
18 ~~authorized by other provisions of the law.~~  
19 Sec. 2. Section 537.2402, subsection 1, Code 2007, is  
20 amended to read as follows:  
21 1. If authorized to make supervised loans, a creditor may  
22 contract for and receive a finance charge without limitation  
23 as to amount or rate with respect to a loan pursuant to  
24 open=end credit as permitted in this section except as  
25 provided in section 537.2403.

1 26 Sec. 3. NEW SECTION. 537.2403 FINANCE CHARGE FOR  
2 27 CONSUMER LOANS SECURED BY A MOTOR VEHICLE.  
3 28 1. A lender shall not contract for or receive a finance  
4 29 charge exceeding twenty=one percent per year on the unpaid  
5 30 balance of the amount financed for a loan of money secured by  
6 31 a certificate of title to a motor vehicle used for personal,  
7 32 family, or household purpose except as authorized under  
8 33 chapter 536 or 536A. A consumer who is charged a finance  
9 34 charge in excess of the limitation in this section may seek  
10 35 any remedies available pursuant to this chapter for an excess  
11 1 charge.  
12 2 2. It shall be a violation of this section and an unlawful  
13 3 practice under section 714.16 to attempt to avoid application  
14 4 of this section by structuring a loan of money secured by a  
15 5 certificate of title to a motor vehicle as a sale, sale and  
16 6 repurchase, sale and lease, pawn, rental purchase, lease, or  
17 7 other type of transaction with the intent to avoid application  
18 8 of this section or any other applicable provision of this  
19 9 chapter.

## EXPLANATION

2 10 This bill relates to the maximum finance charge allowed for  
3 11 consumer loans secured by a certificate of title to a motor  
4 12 vehicle. The bill prohibits a lender from contracting for or  
5 13 receiving a finance charge which exceeds 21 percent per year  
6 14 on the unpaid balance of a loan for money which is secured by  
7 15 a certificate of title to a motor vehicle. The remedies under  
8 16 Code chapter 537 for excess charges are available to consumers  
9 17 who are charged a finance charge in excess of 21 percent per  
10 18

2 19 year for such a consumer loan. The bill provides that an  
2 20 attempt to avoid application of the maximum finance charge on  
2 21 a loan secured by a certificate of title to a motor vehicle by  
2 22 structuring the transaction as a sale, sale and repurchase,  
2 23 sale and lease, pawn, rental purchase, or lease with the  
2 24 intent to avoid the maximum finance charge shall be considered  
2 25 a violation of the maximum finance charge and shall be  
2 26 considered a consumer fraud subject to civil penalties and  
2 27 enforcement pursuant to Code section 714.16.  
2 28 Under current law, a consumer is not obligated to pay an  
2 29 excess charge and is entitled to a refund of any excess charge  
2 30 paid. If a consumer entitled to a refund is refused the  
2 31 refund, the consumer may recover from the creditor or other  
2 32 person liable in a civil action the excess charge and a  
2 33 penalty of not less than \$100 or more than \$1,000. Under  
2 34 current law, a person who willfully and knowingly makes an  
2 35 excess charge is guilty of a serious misdemeanor. A serious  
3 1 misdemeanor is punishable by confinement for no more than one  
3 2 year and a fine of at least \$315 but not more than \$1,875.  
3 3 LSB 1097DP 82  
3 4 rn:rj/gg/14